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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

| | | |
|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | No. 3:05-cr-019-RRB |
| Plaintiff, |) | |
| |) | |
| v. |) | SUPPLEMENTAL |
| |) | RESTITUTION |
| CATHLEEN N. McLAUGHLIN, |) | <u>BRIEFING</u> |
| |) | |
| Defendant. |) | |
| |) | |

On January 30, 2006, the court issued an order requesting any additional information that the two checks McLaughlin wrote to St. Paul for deductibles related to the instant matter, and/or the Catherwood estate matter. At this point in time McLaughlin, who is currently incarcerated, lacks the documents necessary to make this showing "for certain." Presumably, the government has access to documentation which would serve to demonstrate

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the nexus between the St. Paul checks and the underlying matters. The government has failed to demonstrate that the checks and money already paid were not for the deductibles in question. See McLaughlin's objections to the presentence report and her sentencing memorandum. What McLaughlin can provide are copies of the two \$5,000.00 checks paid to St. Paul on October 31, 2002 and December 11, 2002 for payment of deductibles. Copies of these checks are provided here as Exhibit A.

It is the government's burden to prove that McLaughlin did not pay the \$5,000.00 deductibles for the referenced matters. 18 U.S.C. § 3664(e) makes this clear:

The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government.

Given its previous representations, it would be impossible for the government to carry this burden now. Heretofore, the government's position has been that McLaughlin has paid no more than \$19,714.00 in restitution, none of it in insurance deductibles. Presentence Report, § 161(D)/191-2. This claim is demonstrably false.

McLaughlin has repeatedly presented evidence that she paid approximately \$75,000.00 to or on behalf of Ahearn and Webb, in part for deductibles, as well as \$10,000.00

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directly to St. Paul for deductibles. There is simply no way, at this point, that the government can show that the \$65,000.00 paid directly to Ahearn/Webb, or the \$10,000.00 paid directly to St. Paul did not provide payment of the deductibles in the instant matter and/or the Catherwood estate matter. For these reasons, no restitution should be ordered.

Dated at Anchorage, Alaska February 10, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on 02/10/06,
a copy of the foregoing Supplemental
Restitution Brief and its attachments
was served electronically on:

Crandon Randell, Assistant U.S. Attorney

s/Kevin T. Fitzgerald
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